

MEMORANDUM

Agenda Item No. 7(A)(2)(C)

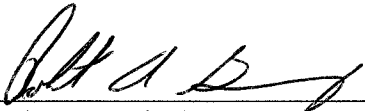
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: February 1, 2005

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Resolution relating to an
Interlocal Agreement with
the City of Doral

The accompanying resolution was prepared and placed on the agenda at the request of Commissioner Jose "Pepe" Diaz.



Robert A. Ginsburg
County Attorney

RAG/jls



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: February 1, 2005

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 7(A)(2)(C)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 7(A)(2)(C)

2-1-05

RESOLUTION NO. _____

RESOLUTION APPROVING AN INTERLOCAL AGREEMENT WITH THE CITY OF DORAL DELEGATING CERTAIN ZONING REGULATORY AUTHORITY OVER SCHOOLS IN PROXIMITY TO MIAMI INTERNATIONAL AIRPORT; AND AUTHORIZING THE COUNTY MANAGER TO EXECUTE THE INTERLOCAL AGREEMENT AND TO EXERCISE THE TERMINATION PROVISIONS CONTAINED THEREIN

WHEREAS, this Board has approved certain zoning regulations governing the limited placement and expansion of public and private schools in proximity to Miami International Airport (MIA), consistent with the applicable provisions of Chapter 333, Florida Statutes, and the Home Rule Charter of Miami-Dade County; and

WHEREAS, pursuant to the authority vested in this Board to enact regulations relating to matters of County-wide interest, the zoning regulations pertaining to the placement and expansion of schools in proximity to MIA have been imposed in both the unincorporated and incorporated areas, for the reasons set forth in the legislative findings in the regulations, and in the same manner as other previously existing zoning regulations pertaining to development in the area surrounding MIA; and

WHEREAS, in establishing the zoning regulations, this Board has established standards and procedures by which applications for certain schools and expansions of schools can be considered and approved or denied, under criteria specifically designed to achieve a careful balance between life-safety, the economic well-being of MIA and the surrounding commercial, industrial and other crucial components of the economy interdependent with MIA, and the great need for schools to reduce overcrowding and meet the needs of future population growth; and

WHEREAS, the zoning regulations specifically contemplate that this Board shall have the authority pursuant to interlocal agreement to delegate certain zoning authority under these regulations to the municipalities in proximity to MIA, provided that the municipality agrees to apply all requirements, standards and procedures provided by the regulations; and

WHEREAS, the City of Doral has agreed to apply the requirements, standards and procedures provided in the zoning regulations and has offered pursuant to an Interlocal Agreement, a copy of which is attached hereto and incorporated herein by reference, to undertake the consideration of applications for schools in proximity to MIA consistent with the County's zoning regulations,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby approves the Interlocal Agreement with the City of Doral for the delegation of certain zoning authority over schools in proximity to MIA, in substantially the form attached hereto and made a part hereof. This Board further authorizes the County Manager to execute the Interlocal Agreement and to exercise the termination provisions contained therein.

The foregoing resolution was sponsored by Commissioner Jose "Pepe" Diaz and offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman	
Dennis C. Moss, Vice-Chairman	
Bruno A. Barreiro	Dr. Barbara Carey-Shuler
Jose "Pepe" Diaz	Carlos A. Gimenez
Sally A. Heyman	Barbara J. Jordan
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 1st day of February, 2005. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

RA6

Joni Armstrong Coffey



**INTERLOCAL AGREEMENT BY AND BETWEEN
MIAMI-DADE COUNTY, FLORIDA, AND THE
CITY OF DORAL, FLORIDA, REGARDING
MIAMI INTERNATIONAL AIRPORT (WILCOX
FIELD) ZONING**

This is an interlocal agreement between Miami-Dade County, a political subdivision of the State of Florida (the "County") and the City of Doral, a municipal corporation of the State of Florida (the "City"), entered into this ____ day of _____, 2005 (the "Agreement").

RECITALS

1. The Board of County Commissioners of Miami-Dade County, Florida (the "Board"), has adopted the Comprehensive Development Master Plan (CDMP) for Miami-Dade County and in it has expressly declared that it is the continuing policy of Miami-Dade County, in cooperation with federal, state, regional and other local governments, and other concerned public and private organizations, to use all reasonable means and measures to (a) foster and promote the general welfare, (b) to create and maintain conditions under which man and nature can exist in productive harmony, and (c) to fill the social, economic and other requirements of the present and future generations of citizens of Miami-Dade County, Florida.

2. Among the County CDMP provisions designed to achieve these ends are goals, objectives and policies to ensure the provision of an economic, integrated environment and community sensitive and balanced system of air transportation, facilities and services; to maximize compatibility between airports and the surrounding communities; and to

maximize aviation's support of local and regional economic growth. In furtherance of these goals, objectives and policies, the Board has found that the coordinated review and analysis of its airport facilities and surrounding communities is necessary to carry on a central metropolitan government in Miami-Dade County, Florida.

3. Properly coordinated review, analysis and regulation of airport facilities and the surrounding communities' present and future land uses is susceptible to, and would be most effectively carried on, under a uniform plan of regulation applicable to the County as a whole. The planning of the efficient land use around the airport, combined with other plan implementation tools, can be effectively used in meeting social, economic and environmental needs and in creating a major influence on metropolitan development patterns and life styles.

4. The capability of an efficient, safe airport system and associated industry and businesses, acting in conjunction with other urban services, including public and private educational facilities, to establish general development trends, is well recognized. A maximum coordination of the airport system requirements and land use policy decisions is therefore essential to optimize the role of the airport system as a potent tool for implementing the desired patterns of metropolitan development in Miami-Dade County.

5. The Legislature of the State of Florida has mandated the adoption of land use regulations by political subdivisions authorized to establish and operate airports within its territorial limits, to assure compatible land uses in the areas surrounding such airports. The Board has acknowledged and adopted as its own those legislative findings in Chapter 333,

7

Florida Statutes, that call for coordinated planning airports and coordinated land uses in proximity thereto, and

6. Among the matters that Chapter 333, Florida Statutes, requires to be regulated are the siting and construction of public and private educational facilities in certain defined areas in proximity to airports. Public and private educational facilities for all of Miami-Dade's communities are an indispensable urban service, essential to achieving a high standard of living for Miami-Dade County's residents and to meeting critical social and economic needs. Meeting the escalating demand for such educational facilities in already developed or rapidly developing urban areas is expensive and difficult, due in part to dwindling supplies of available developable land.

7. Consistent with Chapter 333, Florida Statutes, and the CDMP, and based on a showing of great need for schools in Miami-Dade County, the Board has approved certain zoning regulations governing the limited placement and expansion of public and private schools in proximity to Miami International Airport (MIA), by its enactment of Ordinance No. 04-203, to be codified as sections 33-330.1 through 33-343.1, 33-303.2, and 33-314(C)(12), Code of Miami-Dade County ("MIA Zoning Regulations").

8. Where certain conditions and requirements are met, as prescribed by the MIA Zoning Regulations, educational facilities can safely, effectively and economically be sited and constructed within defined areas in proximity to MIA.

9. The regulations contained in the MIA Zoning Regulations reflect a considered balancing of the escalating need and demand for educational facilities to serve its residents, the health and safety concerns pertinent to allowing development in proximity to Miami

International Airport, and the interest in maintaining and fostering business and industry associated with aviation in general and specifically with Miami International Airport.

10. The MIA Zoning Regulations establish standards and procedures by which applications for certain schools and expansions of schools can be considered and approved or denied, under criteria specifically designed to achieve a careful balance between life-safety, the economic well-being of MIA and the surrounding commercial, industrial and other crucial components of the economy interdependent with MIA, and the great need for schools to reduce overcrowding and meet the needs of future population growth.

11. The MIA Zoning Regulations expressly contemplate that the Board shall have the authority pursuant to interlocal agreement to delegate certain zoning authority under the MIA Zoning Regulations to the municipalities in proximity to MIA, provided that the municipality agrees to apply all requirements, standards and procedures provided by the regulations. The MIA Zoning Regulations provide at section 33-337(C), Code of Miami-Dade County, Florida:

“(C) Upon execution of an interlocal agreement, the County may delegate to a municipality the powers and duties of the Department of Planning and Zoning or the Board of County Commissioners under this section pertaining to the CA-B and CA-C sub-zone. Any such agreement shall provide for the application of all requirements, standards and procedures contained herein.”

12. The City of Doral has detailed and historical knowledge, expertise and understanding regarding the character and nature of the residential communities and the commercial and industrial areas in the areas within the City limits, as they may be amended from time to time, in proximity to Miami International Airport. The City further has

sufficient expertise, experience, boards and personnel in place to administer and apply those portions of the MIA Zoning Regulations allowing the limited placement and expansion of educational facilities (the “MIA Educational Facilities Zoning Regulations”), while using its special knowledge of the areas within the City that are in proximity to Miami International Airport.

13. The City of Doral has expressed its desire to apply the delegable portions of the MIA Zoning Regulations in the areas of the City that are subject to those regulations, as the preferable means to assure the preservation of the character and nature of the City’s residential communities and other development near Miami International Airport. In so doing, the City has agreed to administer and apply the requirements, standards and procedures provided in the MIA Zoning Regulations, attached hereto and incorporated herein by reference, and to undertake the consideration of applications for schools in proximity to Miami International Airport consistent with the County’s MIA Zoning Regulations and the CDMP. The parties agree that the City of Doral is additionally able to enact such supplemental zoning regulations as do not conflict with the County regulations and which provide stricter standards.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the City agree as follows:

1. **Recitals.** The foregoing recitals are hereby acknowledged as true and correct, and are incorporated herein by reference.

2. **Purpose.** The purpose of this Interlocal Agreement is to provide for the delegation from Miami-Dade County to the City of Doral of the powers and duties of the Miami-Dade County Planning and Zoning Director and the Board of County Commissioners to administer and apply the delegable portions of Ordinance No. 04-203, enacted by the Board of County Commissioners on November 30, 2004, to be codified as section 33-337 of the Code of Miami-Dade County (the “MIA Educational Facilities Zoning Regulations”), subject to the conditions, procedures and requirements of this Interlocal Agreement and the MIA Zoning Regulations.

3. **County.** The County hereby delegates to the City of Doral the powers and duties to apply and administer section 33-337 of the Code of Miami-Dade County for the limited placement and expansion of educational facilities in the CA-B and CA-C subzones (the “MIA Educational Facilities Zoning Regulations”), in accordance with the provisions of this Interlocal Agreement, the CDMP and the MIA Zoning Regulations, as any of which may be amended from time to time. The powers and duties of the Miami-Dade County Planning and Zoning Director to administer and apply such portions of the MIA Educational Facilities Zoning Regulations are hereby delegated to the City for assignment to appropriate professional City planning and zoning staff. The powers and duties of the Board of County Commissioners to administer and apply such portions of the MIA Educational Facilities Zoning Regulations are hereby delegated to the City for exercise by the City Commission of the City of Doral.

The County shall provide notice to the City of any amendments to the MIA Educational Facilities Zoning Regulations, the MIA Zoning Regulations, and the relevant provisions of the CDMP promptly upon the effective date thereof. The County shall further provide to the City prior notice of all hearings and public meetings at which modifications to such regulations and ordinances are to be considered. The City shall have an opportunity to review and comment on such proposed modifications.

4. **City**. The City hereby accepts the delegation of the powers and duties described in the preceding paragraph. The City shall exercise such powers and perform the duties in strict compliance (1) with the requirements, standards and procedures provided in the MIA Zoning Regulations, a copy of which is attached hereto and incorporated herein by reference, as such may be amended from time to time, (2) with the applicable provisions of the CDMP and (3) with applicable State and federal laws. The City shall also comply with the following:

- a. Final decisions of the City Commission shall be made after public hearing, shall be in writing, and shall be final and subject to judicial review in the same manner as a decision of the Board of County Commissioners would be final in the absence of the delegation under this Interlocal Agreement.
- b. Final decisions of City professional planning and zoning staff shall be in writing and shall be final and subject to review by the City Commission in the same manner as a decision of the Miami-Dade County Planning and Zoning Director in the absence of the delegation under this Interlocal Agreement.

- c. The City shall notify the Miami-Dade Planning and Zoning Director of every application for development approval under the MIA Educational Facilities Zoning Regulations, within 10 calendar days after receipt of a complete application. The City shall also provide the Miami-Dade County Planning and Zoning Director a copy of the notices of all public meetings and hearings at which an application for such development approval may be considered, whether for the purpose of recommendation or final determination. The City shall also provide a meaningful opportunity to the Miami-Dade County Planning and Zoning Director to provide information and make recommendations to appropriate City professional planning and zoning staff prior to any final decision on an application for development approval from such staff. Such opportunity shall include providing timely notice of the City's professional staff recommendation on each application.
- d. The City shall provide written notice of every final decision approving development under the MIA Educational Facilities Zoning Regulations, within 7 calendar days after the decision is rendered.
- e. Within 7 days after receipt of notice of a challenge, the City shall provide written notice to the Miami-Dade County Planning and Zoning Director of every administrative and judicial challenge to a decision of the City Commission or City professional planning and zoning staff.
- f. The City shall raise no objection to the standing of Miami-Dade County to raise in administrative or judicial proceedings objections to a

final decision of City professional planning and zoning staff or the City Commission, including but not limited to the following challenges:

- (1) a challenge to the City's compliance with the MIA Zoning Regulations or applicable CDMP provisions;
- (2) a challenge relating to whether sufficient competent evidence supports the city's decision; or
- (3) a challenge to the City's compliance with any state or federal constitutional or legislative provision, including but not limited to provisions pertaining to inverse condemnation, the First Amendment to the United States Constitution, and the Bert J. Harris, Jr., Private Property Rights Protection Act.

Notwithstanding this Interlocal Agreement, except for standing of the County, the City reserves all of its rights, remedies, and defenses in such challenges.

5. Indemnification. To the extent allowed by section 768.28, Florida Statutes and the laws of the State of Florida, the City shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents, or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Interlocal Agreement by the City or its officers, employees, agents, servants,

partners, principals, or subcontractors. This indemnification by the City shall not apply to acts or omissions of the County, its officers, employees, officials agents, servants, partners, principals, or subcontractors. The City shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorneys' fees which may issue thereon. The City expressly agrees and understands that any insurance protection provided by the City shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

To the extent allowed by section 768.28, Florida Statutes and the laws of the State of Florida, the County shall indemnify and hold harmless the City of Doral and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the City or its officers, employees, agents, or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Interlocal Agreement by the County or its officers, employees, agents, servants, partners, principals, or subcontractors. This indemnification by the County shall not apply to acts or omissions of the City, its officers, employees, officials agents, servants, partners, principals, or subcontractors. The County shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the City, where applicable, including

15

appellate proceedings, and shall pay all costs, judgments, and attorneys' fees which may issue thereon. The County expressly agrees and understands that any insurance protection provided by the City shall in no way limit the responsibility to indemnify, keep and save harmless and defend the City or its officers, employees, agents and instrumentalities as herein provided.

6. Termination. This Interlocal Agreement may be terminated by either party, upon the grounds and after the procedures provided herein. Either party may terminate the agreement for cause. "For cause" shall mean any of the following actions: (i) a substantial failure by the City of Doral to perform the delegated duties in accordance with this Interlocal Agreement over a period of more than one (1) year, or a failure to perform such duties in three (3) separate applications for development approval during the course of a calendar year, following written notice of default by the County which is not cured within 90 days after receipt of such notice; or (ii) a failure of either party to comply with a material term, condition or stipulation applicable to its performance of this Interlocal Agreement, following written notice of default by the other party which is not cured within 90 days after receipt of such notice.

All applications for establishment or expansion of an educational facility pursuant to the delegation of authority hereunder, which are filed or advertised for hearing or administrative site plan approval after termination of this Interlocal Agreement, shall be decided by the County. Any application for establishment or expansion of an educational facility that has been properly filed and has been

advertised for hearing or administrative site plan approval prior to termination of this Interlocal Agreement shall be decided by the City.

7. **Notice.** Any notices to be given hereunder shall be in writing and shall be deemed to have been given if sent by hand delivery or recognized overnight courier (such as Federal Express), or if by certified U.S. mail, with return receipt requested, addressed to the party for whom it is intended, at the place specified. For the present, the parties designate the following as the respective places for notice purposes:

If to the County: Miami-Dade County Manager
Stephen P. Clark Center
111 N.W. First Street
Miami, FL 33128

With a copy to: Miami-Dade County Attorney
Stephen P. Clark Center
111 N.W. 1st Street, Suite 2800
Miami, FL 33128

If to the City: City Manager
Yoselyn Galiano Gomez
8300 NW 53rd Street
Suite #100
Doral, FL 33166

With a copy to: City of Doral City Attorney
John J. Hearn, Esq.
1917 NW 81 Ave.
Coral Springs, FL 33071

8. Entire Agreement. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Interlocal Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.

9. Amendment. This Interlocal Agreement may be amended or modified only by an agreement in writing and signed by the duly authorized representatives of the City and the County.

10. Term and Effective Date. This Interlocal Agreement shall become effective upon the final execution by the duly authorized representatives of the City and the County and shall continue in force and effect unless terminated in accordance with the provisions contained herein.

11. Governing Law and Venue. This Interlocal Agreement shall be construed in accordance with the laws of the State of Florida. Exclusive venue for any litigation between the parties shall be in Miami-Dade County, Florida.

12. Severability. If any term or provision of this Interlocal Agreement or the application of either shall to any extent be determined to be invalid or unenforceable, the remainder of this Interlocal Agreement, or the application of such term or provision to circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected, and The remainder of this Interlocal Agreement shall be enforced to the extent permitted by law.

13. Waiver. The failure of either party to this Interlocal Agreement to object or take affirmative action with respect to any conduct of the other party which is in violation of the terms of this Interlocal Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this Interlocal Agreement this ____ day of _____, 2005.

ATTEST:

Miami-Dade County, Florida

By: _____
As Deputy Clerk

By: _____
Miami-Dade County Manager

ATTEST:

City of Doral, Florida

By: _____
As Deputy Clerk

By: _____
City of Doral Manager